

ATF Releases Revised ATF F4473, Notice to All FFLs, and Q&As

July 3, 2012

Since 1998, the Gun Control Act of 1968 (GCA) has prohibited any “alien” who has been admitted into the United States under a nonimmigrant visa from receiving or possessing a firearm that has a connection to interstate commerce. *See* Title 18, United States Code (U.S.C.), section 922(g)(5)(B). In an interim final regulation published in 2002, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) interpreted this provision to cover all “nonimmigrant aliens,” regardless of whether the alien required a visa in order to be admitted into the United States. The U.S. Department of Justice (DOJ) determined that this statutory firearms prohibition applies only to aliens admitted into the United States with nonimmigrant visas, rather than all nonimmigrant aliens in the United States. Some nonimmigrant aliens, including most Canadian visitors, as well as aliens admitted under the Visa Waiver program, are allowed to be present in the United States without a nonimmigrant visa. Those aliens, and others who are lawfully in the country without a visa, are not within the scope of the GCA prohibition. This interpretation of the scope of persons prohibited by 18 U.S.C. section 922(g)(5)(B) extends to transfers of firearms by sellers, including Federal Firearms Licensees (FFL), under 18 U.S.C. section 922(d)(5)(B). In addition, DOJ concluded that, as a matter of law, applying a more stringent state residency requirement for aliens legally present in the U.S. than for U.S. citizens is incompatible with the language of the GCA. As a result, ATF revised its regulations in 27 C.F.R. Part 478 by removing the separate 90-day residency requirement for aliens. ATF has now revised ATF Form 4473 to conform with DOJ’s legal determinations concerning aliens.

In addition, on July 9, 2012, the revised e-Form 4473 application will be posted and available for download. All FFLs must ensure that they are using the correct e-Form 4473 version on that date.

Attachments

[Notice to All Federal Firearms Licensees](#)

[Q&As](#)

[ATF F 4473 \(April 2012 Edition\)](#)